

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

THE CITY OF HUNTINGTON,

Plaintiff,

v.

AMERISOURCEBERGEN DRUG
CORPORATION, et al.,

Defendants.

Civil Action No. 3:17-01362
Hon. David A. Faber

CABELL COUNTY COMMISSION,

Plaintiff,

v.

AMERISOURCEBERGEN DRUG
CORPORATION, et al.,

Defendants.

Civil Action No. 3:17-01665
Hon. David A. Faber

**ORDER DENYING PLAINTIFFS' MOTION TO COMPEL
THE IDENTIFICATION OF DILIGENCE FILES**

Plaintiffs' Motion To Compel the Identification of Diligence Files, Dkt. 732, is hereby DENIED as to McKesson Corporation ("McKesson"). Plaintiffs' seek to have the Special Master enforce portions of Discovery Ruling No. 2 upon Defendant McKesson ordering further compliance and production. It is important to note that Plaintiffs' choose not to seek relief from McKesson in the Motion, Dkt. 169, that resulted in Discovery Ruling No. 2 and thus McKesson was not compelled to produce any information. Therefore the instant motion cannot be considered as seeking to enforce a prior ruling but is seeking new relief as to this party and

consequently this motion is untimely under the Court's scheduling order, Dkt. 410, and Local Rule 37.1(c). The Special Master finds Plaintiffs were aware of the requirement to, and did file placeholder motions while other ongoing discovery disputes were being negotiated. There is a strong preference for written discovery to conclude and the circumstances for considering a late filed motion must truly be extraordinary. No such circumstances exist here, the Plaintiffs' were aware of Defendant's written objections well in advance of the Court's filing deadline yet failed to file the instant motion prior to the deadline.

Therefore Plaintiffs' motion is denied

Respectfully submitted,

Christopher C. Wilkes
Special Master

Dated: July 31, 2020